

Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

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12.9.21

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LLS NO. 22-0340.01 Ed DeCecco x4216

HOUSE BILL

HOUSE SPONSORSHIP

Bird,

SENATE SPONSORSHIP

(None),

BILL TOPIC: "Short-term Rental Units Property Taxation"

A BILL FOR AN ACT

101 **CONCERNING THE PROPERTY TAX CLASSIFICATION OF SHORT-TERM**
102 **RENTAL UNITS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill defines a short-term rental unit as a building, or that portion of a building, that is designed for use predominantly as a place of residency by a person, a family, or families, and that is leased or available to be leased for short-term stays. A commercial short-term rental unit is a residential unit that is not the owner's primary or secondary residence.

A commercial short-term rental unit is classified as lodging

*Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

property, which is a subclass of nonresidential property for purposes of the valuation for assessment. A short-term rental unit that is the owner's primary or secondary residence will continue to be classified as residential property.

On or before November 15, 2022, and on or before November 15 of each year thereafter, an owner of a short-term rental unit shall submit to the assessor of the county in which the property is located an affidavit signed by the owner, under the penalty of perjury in the second degree, identifying whether the property will continue to be used as a short-term rental unit in the following property tax year commencing on January 1, and if so, whether it will be the owner's primary or secondary residence. Absent contrary information, the assessor shall use the information in the affidavit to determine whether the property is a commercial short-term rental unit.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 39-1-102, **amend**
3 (3.2) and (14.3); and **add** (3.3), (15.7), (15.8), and (15.9) as follows:

4 **39-1-102. Definitions.** As used in articles 1 to 13 of this title 39,
5 unless the context otherwise requires:

6 (3.2) ~~"Conservation purpose" means any of the following~~
7 ~~purposes as set forth in section 170 (h) of the federal "Internal Revenue~~
8 ~~Code of 1986", as amended:~~

9 ~~(a) The preservation of land areas for outdoor recreation, the~~
10 ~~education of the public, or the protection of a relatively natural habitat for~~
11 ~~fish, wildlife, plants, or similar ecosystems; or~~

12 ~~(b) The preservation of open space, including farmland and forest~~
13 ~~land, where such preservation is for the scenic enjoyment of the public or~~
14 ~~is pursuant to a clearly delineated federal, state, or local government~~
15 ~~conservation policy and where such preservation will yield a significant~~
16 ~~public benefit. "COMMERCIAL SHORT-TERM RENTAL UNIT" MEANS A~~

17 ~~SHORT-TERM RENTAL UNIT THAT IS NOT THE OWNER'S PRIMARY OR~~

1 SECONDARY RESIDENCE.

2 (3.3) "CONSERVATION PURPOSE" MEANS ANY OF THE FOLLOWING
3 PURPOSES AS SET FORTH IN SECTION 170 (h) OF THE FEDERAL "INTERNAL
4 REVENUE CODE OF 1986", AS AMENDED:

5 (a) THE PRESERVATION OF LAND AREAS FOR OUTDOOR
6 RECREATION, THE EDUCATION OF THE PUBLIC, OR THE PROTECTION OF A
7 RELATIVELY NATURAL HABITAT FOR FISH, WILDLIFE, PLANTS, OR SIMILAR
8 ECOSYSTEMS; OR

9 (b) THE PRESERVATION OF OPEN SPACE, INCLUDING FARMLAND
10 AND FOREST LAND, WHERE SUCH PRESERVATION IS FOR THE SCENIC
11 ENJOYMENT OF THE PUBLIC OR IS PURSUANT TO A CLEARLY DELINEATED
12 FEDERAL, STATE, OR LOCAL GOVERNMENT CONSERVATION POLICY AND
13 WHERE SUCH PRESERVATION WILL YIELD A SIGNIFICANT PUBLIC BENEFIT.

14 (14.3) "Residential improvements" means a building, or that
15 portion of a building, designed for use predominantly as a place of
16 residency by a person, a family, or families. The term includes buildings,
17 structures, fixtures, fences, amenities, and water rights that are an integral
18 part of the residential use. The term also includes a manufactured home
19 as defined in subsection (7.8) of this section, a mobile home as defined
20 in subsection (8) of this section, and a modular home as defined in
21 subsection (8.3) of this section. THE TERM INCLUDES A SHORT-TERM
22 RENTAL UNIT THAT IS USED AS AN OWNER'S PRIMARY OR SECONDARY
23 RESIDENCE, BUT EXCLUDES A COMMERCIAL SHORT-TERM RENTAL UNIT.

24 (15.7) "SECONDARY RESIDENCE" MEANS A RESIDENTIAL
25 IMPROVEMENT THAT IS NOT THE OWNER'S PRIMARY RESIDENCE BUT AT
26 WHICH THE OWNER STAYS PART TIME. AN OWNER SHALL NOT HAVE MORE
27 THAN ONE SECONDARY RESIDENCE. <{How do you want to define

1 "secondary residence"? "Primary residence" is not defined for
2 purposes of the homestead exemption, and so it seems to have a
3 meaning under current law.}>

4 (15.8) "SHORT-TERM RENTAL UNIT" MEANS A BUILDING, OR THAT
5 PORTION OF A BUILDING, THAT IS DESIGNED FOR USE PREDOMINANTLY AS
6 A PLACE OF RESIDENCY BY A PERSON, A FAMILY, OR FAMILIES AND THAT
7 IS LEASED OR AVAILABLE TO BE LEASED FOR ONE OR MORE SHORT-TERM
8 STAYS.

9 (15.9) "SHORT-TERM STAY" MEANS OVERNIGHT LODGING THAT IS
10 PROVIDED TO AN INDIVIDUAL OR BUSINESS FOR LESS THAN THIRTY
11 CONSECUTIVE DAYS IN EXCHANGE FOR MONETARY PAYMENT.

12 **SECTION 2.** In Colorado Revised Statutes, **add** 39-1-103.7 as
13 follows:

14 **39-1-103.7. Commercial short-term rental units - legislative**
15 **declaration.** (1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES
16 THAT:

17 (a) RESIDENTIAL REAL PROPERTY IS DEFINED IN THE STATE
18 CONSTITUTION TO INCLUDE ALL RESIDENTIAL DWELLING UNITS AND THE
19 LAND ON WHICH SUCH UNITS ARE LOCATED, AND IT SPECIFICALLY
20 EXCLUDES HOTELS AND MOTELS;

21 (b) HOTELS AND MOTELS ARE COMMERCIAL ESTABLISHMENTS
22 THAT PROVIDE LODGING FOR GUESTS IN EXCHANGE FOR PAYMENT AND
23 THEY ARE CLASSIFIED AS LODGING PROPERTY, WHICH IS A SUBCLASS OF
24 NONRESIDENTIAL PROPERTY;

25 (c) SHORT-TERM RENTAL UNITS ARE IMPROVEMENTS THAT ARE
26 OSTENSIBLY RESIDENTIAL IMPROVEMENTS, BUT THEY ARE ALSO USED FOR
27 THE COMMERCIAL PURPOSE OF PROVIDING LODGING FOR LESS THAN

1 THIRTY CONSECUTIVE DAYS IN EXCHANGE FOR PAYMENT;

2 (d) WHILE SHORT-TERM RENTAL UNITS ARE NOT A NEW
3 PHENOMENON, THEY HAVE BECOME MORE PREVALENT WITH THE INCREASE
4 OF INTERNET HOSPITALITY SERVICES;

5 (e) AS A RESULT, SOME COLORADO COMMUNITIES NOW HAVE A
6 SIGNIFICANT PORTION OF THEIR HOUSING STOCK BEING USED AS
7 SHORT-TERM RENTAL UNITS;

8 (f) THE CURRENT STATUTORY STRUCTURE DOES NOT PROVIDE
9 COUNTY ASSESSORS WITH AN ADEQUATE MEANS FOR PROPERLY
10 CLASSIFYING DIFFERENT SHORT-TERM RENTAL UNITS; AND

11 (g) IT IS NECESSARY TO DIFFERENTIATE SHORT-TERM RENTAL
12 UNITS THAT SHOULD BE CLASSIFIED AS RESIDENTIAL REAL PROPERTY AND
13 THOSE THAT ARE LODGING PROPERTY AKIN TO A HOTEL OR MOTEL BASED
14 ON THE OWNER'S USE OF THE PROPERTY.

15 (2) ON OR BEFORE NOVEMBER 15, 2022, AND ON OR BEFORE
16 NOVEMBER 15 OF EACH YEAR THEREAFTER, AN OWNER OF A SHORT-TERM
17 RENTAL UNIT SHALL SUBMIT TO THE ASSESSOR OF THE COUNTY IN WHICH
18 THE PROPERTY IS LOCATED AN AFFIDAVIT SIGNED BY THE OWNER, UNDER
19 THE PENALTY OF PERJURY IN THE SECOND DEGREE, IDENTIFYING WHETHER
20 THE PROPERTY WILL CONTINUE TO BE USED AS A SHORT-TERM RENTAL
21 UNIT IN THE FOLLOWING PROPERTY TAX YEAR COMMENCING ON JANUARY
22 1, AND IF SO, WHETHER IT WILL BE THE OWNER'S PRIMARY OR SECONDARY
23 RESIDENCE. ABSENT CONTRARY INFORMATION, THE ASSESSOR SHALL USE
24 THE INFORMATION IN THE AFFIDAVIT TO DETERMINE WHETHER THE
25 PROPERTY IS A COMMERCIAL SHORT-TERM RENTAL UNIT.

26 (3) IF THE OWNER OF A SHORT-TERM RENTAL UNIT FAILS TO FILE
27 AN AFFIDAVIT AS REQUIRED BY SUBSECTION (2) OF THIS SECTION, THERE

1 IS A REBUTTABLE PRESUMPTION THAT A SHORT-TERM RENTAL UNIT IS NOT
2 THE OWNER'S PRIMARY OR SECONDARY RESIDENCE, BUT A TAXPAYER MAY
3 OVERCOME THIS PRESUMPTION BY PROVIDING CONTRARY EVIDENCE TO
4 THE COUNTY ASSESSOR.

5 **SECTION 3.** In Colorado Revised Statutes, 39-1-104, **amend**
6 (1.6)(a) as follows:

7 **39-1-104. Valuation for assessment - definitions.**

8 (1.6) (a) Hotels, motels, bed and breakfasts, COMMERCIAL SHORT-TERM
9 RENTAL UNITS, and personal property located at a hotel, motel, ~~or~~ bed and
10 breakfast, OR SHORT-TERM RENTAL UNIT are classified as lodging
11 property, which is a subclass of nonresidential property for purposes of
12 the valuation for assessment. Classification as a lodging property does not
13 affect a partial allocation as residential real property if a lodging property
14 is a mixed-use property. <*Prior versions treated the short-term rental*
15 *units as a type of hotel or motel. Does identifying them separately make*
16 *them seem more like a "class of property" for purposes of the*
17 *requirement of prior voter approval for an assessment rate under*
18 *TABOR?*>

19 **SECTION 4. Act subject to petition - effective date.** This act
20 takes effect at 12:01 a.m. on the day following the expiration of the
21 ninety-day period after final adjournment of the general assembly; except
22 that, if a referendum petition is filed pursuant to section 1 (3) of article V
23 of the state constitution against this act or an item, section, or part of this
24 act within such period, then the act, item, section, or part will not take
25 effect unless approved by the people at the general election to be held in
26 November 2022 and, in such case, will take effect on the date of the
27 official declaration of the vote thereon by the governor.